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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

ENOCH ADAMS, JR., LEROY ADAMS,
ANDREW KOENIG, JERRY NORTON
DAVID SWAN and JOSEPH SWAN,

Plaintiffs,

v.

TECK COMINCO ALASKA INCORPORATED

Defendant.

NANA REGIONAL CORPORATION and
NORTHWEST ARCTIC BOROUGH,

Intervenors-Defendants.

Case No. A04-49 (JWS)

**[PROPOSED] ORDER
GRANTING OBJECTIONS TO
PENALTY WITNESS LIST
AND MOTIONS IN LIMINE
TO EXCLUDE WITNESSES
FOR FAILURE TO
ADEQUATELY SPECIFY
TESTIMONY**

ORDER GRANTING ADAMS OBJECTION TO PENALTY WITNESS
LIST AND MOTION TO EXCLUDE WITNESSES FOR
FAILURE TO ADEQUATELY SPECIFY TESTIMONY

1 This Court's Pre-Trial Order instructed: "As to each witness so listed (even though the
 2 witness may have been deposed), counsel will disclose the testimony expected to be elicited from
 3 that witness at trial. *The disclosure will be specific and not general*, the purpose being to avoid
 4 surprise and delay at trial and *to give opposing counsel an adequate basis for developing cross-*
 5 *examination.*" Docket 177 at 3 (emphasis added). Teck Cominco has filed a revised witness list
 6 for the penalty phase of trial. Docket 203. The Adams plaintiffs have moved to exclude 68
 7 witnesses because of Teck Cominco's alleged failure to adequately specify the testimony
 8 expected to be elicited from each. The Court has reviewed Docket 203, and GOOD CAUSE
 9 APPEARING THEREFORE, IT IS ORDERED THAT:

10 1. The testimony of Joyce Tsuji as to "work performed by Exponent for Red Dog Mine"
 11 is barred from trial as this description lacked the requisite specificity.

12 2. Richard Brown, Peter Chapman, Greg Horner, Kevin Lackey, Jackie Lundberg, Mike
 13 Schierman, Mike Stanoway, William Stubblefield, Jason Weakley, Roland Booth, Raymond
 14 Hawley, John Rense, Gerry Booth, Philip Driver, Jon Houghton, Alvin Ott, Karen Kelly, Gene
 15 Andrews, Steven Day, Walter Kuit, Brigitte Lacouture, Carl Overpeck, George Thornton, Jeff
 16 Weaver, Ted Zigarlick, Sue Barkey, Mike Botz, Kevin Brix, Stan Capps, David DeForest, Anna
 17 Echter, Gretchen Mitchell, Steven Eide, Wayne Hall, Chuck Hingsbergen, Lynda Huckstein,
 18 John Key, Ed Koon, Keith Malone, John Martinisko, Robert Napier, Kent Patton, David Pillard,
 19 Mike Prieve, Kathleen Collins, Craig Paulsen, John Middaugh, Scott Arnold, JoAnne Bozek,
 20 Gerry Brown, Steven Pannone, Larry Peterson, Scott Shock, Bert Adams, Sr., Theodore Booth,
 21 Chuck Greene, Walter Sampson, Robert Sheldon, Jim Dau, Alfred DeCicco, Lee Johnson, Al
 22 Townsend, Kevin Thomas, Rose Barr, Helvi Sandvik, and James Kulas are barred from testifying
 23 at the penalty phase as the description of their testimony lacked the requisite specificity.

24 3. The testimony of Kathleen Willman as to "water balance issues" is barred from trial as
 25 the description of this testimony lacks the requisite specificity.

26 IT IS SO ORDERED.

27 DATE:

28 _____
 Judge of the District Court

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January 2008, a true and correct copy of the foregoing Proposed Order Granting Objections to Penalty Witness List and Motion to Exclude Witnesses for Failure to Adequately Specify Testimony, was served, via electronic mail, on the below identified parties of record:

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/S/Luke Cole

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